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LETTER

FROM

JOHN ROSS,

PRINCIPAL CHIEF

OF THE

CHEROKEE NATION OF INDIANS,

IN ANSWER TO

INQUIRIES FROM A FRIEND

REGARDING

THE CHEROKEE AFFAIRS WITH THE UNITED STATES.

FOLLOWED BY A COPY

OF THE

PROTEST OF THE CHEROKEE DELEGATION,

LAID BEFORE THE SENATE AND HOUSE OF REPRESENTATIVES AT THE CITY OF WASHINGTON, ON THE TWENTY-FIRST DAY OF JUNE, EIGHTEEN HUNDRED AND THIRTY-SIX.

JOHN ROSS ON CHEROKEE AFFAIRS.

WASHINGTON CITY,
JULY 2, 1836.

MY DEAR SIR,

Your interest in relation to our fortunes is very kind and liberal, and I sincerely thank you for it. You say you hope I shall not be offended at your questions, and that I will believe you have no sinister views in writing to me, to clear up certain doubts which have been forced upon you, concerning my movements in Cherokee affairs. Instead of being annoyed, I thank you for the opportunity which you have given me, through these doubts, of endeavouring, briefly, to explain, not only our position, but some portions of my own conduct connected with it, which have been grossly, but purposely, misrepresented.

I wish I could acquiesce in your impression, that a Treaty has been made, by which every difficulty between the Cherokees and the United States has been set at rest; but I must candidly say, that I know of no such Treaty. I do not mean to prophesy any similar troubles to those which have, in other cases, followed the failure to adjust disputed points with Indians; the Cherokees act on a principle preventing apprehensions of that nature—their principle is, "endure and forbear;" but I must distinctly declare to you that I believe, the document signed by unauthorized individuals at Washington, will never be regarded by the Cherokee nation as a Treaty. The delegation appointed by the people to make a Treaty, have protested against that instrument "as deceptive to the world and a fraud upon the Cherokee people."* You say you do *not* see my name appended to the paper in question, but that you regard the omission as a typographical mistake, because you *do* find my name among

* "The delegation must repeat, the instrument entered into at New Echota, purporting to be a Treaty, is deceptive to the world and a fraud upon the Cherokee people. If a doubt exist as to the truth of their statements, a Committee of Investigation can learn the facts, and it may also learn that if the Cherokees are removed under that instrument, it will be by force. This declaration they make in sincerity, with hearts sickening at the scenes they may be doomed to witness; they have toiled to avert such a calamity; it is now with Congress, and beyond their controul; they hope they are mistaken, but it is hope against a sad and almost certain reality. It would be uncandid to conceal their opinions, and they have no motive for expressing them but a solemn sense of duty. The Cherokees cannot resist the power of the United States, and should they be driven from their native land, then will they look in melancholy sadness upon the golden chains, presented by President Washington to the Cherokee people, as emblematical of the brightness and purity of the friendship between the United States and the Cherokee nation."—*Memorial to Congress, June* 21, 1836.

those who are mentioned in it as the future directors of Cherokee affairs.

I will answer these points separately: and, first,

My name is not, by mistake, omitted among the signers of the paper in question; and the reasons why it is not affixed to that paper, are the following:—

Neither myself nor any other member of the regular delegation to Washington, can, without violating our most sacred engagements, ever recognize that paper as a Treaty, by assenting to its terms, or the mode of its execution. They are entirely inconsistent with the views of the Cherokee people. Three times have the Cherokee people formally and openly rejected conditions substantially the same as these. We were commissioned by the people, under express injunctions, not to bind the nation to any such conditions. The delegation representing the Cherokees, have, therefore, officially rejected these conditions themselves, and have regularly protested before the Senate and House of Representatives, against their ratification. The Cherokee people, in two protests, the one signed by twelve thousand seven hundred and fourteen persons, and the other by three thousand two hundred and fifty persons, spoke for themselves against the Treaty, even previous to its rejection by those whom they had selected to speak for them.

With your impressions concerning the advantages secured by the subtle instrument in question, you will, no doubt, wonder at this opposition. But it possesses not the advantages you and others imagine; and that is the reason why it has encountered, and ever will encounter opposition. You suppose we are to be removed through it from a home, by circumstances rendered disagreeable and even untenable, to be secured in a better home, where nothing can disturb or dispossess us. *Here is the great mystification.* We are not secured in the new home promised to us. We are exposed to precisely the same miseries, from which, if this measure is enforced, the United States' power professes to relieve us, but does so entirely by the exercise of that power, against our will.

If we really had the security you and others suppose we have, we would not thus complain. But mark the truth and judge for yourself.

White men obtain their title to property, between one and another, by what is called *fee simple.* I have discovered that many of those who have voted in favour of this pretended Treaty, have done so under the impression that they were voting lands to us in *fee simple*—especially as we are to be compelled to pay for those lands the sum of five hundred thousand dollars—having already paid for a portion of them, by exchange, what is equivalent to the full amount of their intrinsic value. But the difference between the right by which the state of Georgia and other states hold lands, is a very, very material difference from that for which we Cherokees shall have paid, according to this

arrangement, at the smallest estimate, calculating the valuation of the exchange at government prices, and adding it to the sum to be paid in money—*seven millions of dollars!* Seven millions for lands without a real title! For this sum, I admit, the United States do promise that they will "cause a patent, or grant, to be made and executed" to us for the aforesaid tract of land, but it is always on the proviso, "that such land shall *revert* to the United States, if the Indians become extinct, or abandon the same." Now, the use of this very phrase, *revert,* is an evidence that the United States do not consider that there is an absolute property given in the soil allotted to the Indians, in payment for their valuable country; the United States retains the absolute property in her own hands, only allowing to the Indians a far inferior right of occupancy to that which they have ever been admitted to possess where they now are, and where they were born. The pretended Treaty expressly avows that it is under the law containing the clause above quoted, and other similar laws, that the transfer is made; and the Indian title is to be subject, not only to these laws already existing, but to such laws as may be made hereafter; and to which laws, present and prospective, the Indian regulations for self-government must be equally subordinate. Now, in addition to the inconveniences and insecurity inevitable, from the vagueness of the laws already in operation, those future ones, to which this pretended Treaty makes the Indians blindly promise submission, may entirely extinguish, not only the right of occupancy, but of self-government. For example. Suppose it should suit the policy of the United States, hereafter, to pass a law organizing a territorial government upon the Cherokee lands, west? That law necessarily destroys the character of the Cherokee nation as a distinct community; the nation becomes legally extinct; the lands revert to the United States, and the Cherokee people are bound, by assenting to the conditions of the pretended Treaty, to acquiesce in this law providing a plausible pretext for their annihilation. And should they demur, what is the result? An article in the pretended Treaty expressly stipulates, that military posts, and military roads may, anywhere, and at any time, be established by the United States, in the new country, set apart for the Indians. Hence, any one who might complain of any act of the United States as unauthorized by the right construction of the pretended Treaty, would be as liable to ejectment for the purpose of creating a military post at the malcontent's abode in the Cherokee country west—as now he actually is, and long has been, under similar circumstances, in the Cherokee part of Georgia:—and were vexations to become universal, as they have in Georgia, the region might, in the same manner, be filled with soldiers, and the existence of the Cherokee nation become at once extinguished by laws to which the people will be said themselves to have assented. That there is no disposition ever to interfere thus, is attempted

to be proved by reference to an article of the pretended Treaty, excluding intruders and white men; but this very article is clogged with a worse than neutralizing condition—a condition pregnant with sources of future disquiet—a condition that it is not to prevent the introduction of useful farmers, mechanics, and teachers, under which denomination some future Executive of the United States may find it convenient, hereafter, to overwhelm the original population, and bring about the Territorial Government, by which the Cherokees will be regarded as legally extinguished, and the country of their exile as *reverting* to its real proprietor, the United States. Thus will the favourite theory, which has been ascribed to the President, be fully realized. This policy will *legislate the Indians off the land!*

That all these things are possible, is proved by the present posture of affairs in the region of our birth, our sacred inheritance from our fathers. It is but a few years, since the apprehension of scenes like those from which the United States acknowledges her incompetency to protect us, even under the pledge of Treaties, would have been regarded as a morbid dream. But a State has already been created on the boundary of the retreat set apart for the exile of the Indians—the State of Arkansas; another State, and an independent one—a new republic, made up of many of the old foes of the Indians—Texas, is rising on another boundary; and who shall say how soon these, and other new bordering states, may become as uneasy from the Indian neighbourhood, as the old ones are now? It was at one time thought that the United States never could declare she was unable to keep the Treaties of former days. Is it less possible that she may hereafter experience the same difficulty in keeping those of the days in which we live? especially, as in the present instance, she may be called upon, not only to defend those Treaties from violation by her own citizens, but by the people, though of the same origin, belonging to a new, a warlike, an independent republic.

To proceed to your second remark: that you find my name among those enumerated in the pretended Treaty, who are to form a Committee for the Regulation, under that instrument, of Cherokee affairs.

It is true, my name is in that list, and at the head of the thirteen members named by the United States Government; but it was never placed there with my sanction. I disclaim the act, as I disclaim the instrument which contains the act. If ever I hold an office in the nation of my compatriots, it must be from *their* election, not the nomination of the Executive of another country; and the insertion of my name among the thirteen in question, ranks with the other unauthorized proceedings of an irresponsible and self-constituted opposition to the legalized authorities of the nation. If I have objected to the pretended Treaty, not only as made with persons whom the nation will not recognize as its representatives, but as exchanging

relations in some degree defined, for those utterly and dangerously undefined; as rendering a distressed people entirely dependent upon the policy or the caprices of successors to a government which has not respected that people's dearest rights; I certainly would not render myself the accomplice of what I look upon as wronging those whose interests are more precious to me than my own.

I will now turn to portions of your letter, more immediately touching my own character; and at the head of these I find what you call, on the misrepresentation of Mr Schermerhorn, my having agreed to bind "my people" to sell the Cherokee nation, on certain terms, from which I afterwards capriciously departed.

I must here beg leave to observe that I have never yet been placed in a position which could render *my* individual decision conclusive upon any matters of this nature, nor could I ever wish for such responsibility. The Cherokee people are not "my people;" I am only one of their agents and their elected chief: It is I who serve under them, not they under me. At the time of the transaction to which you allude, the delegation, of which I was a member, had ample powers to make a treaty for a partial cession of the country, with security in the residue; but we had no authority for the extension of our discretionary power to any treaty for an entire sale of the country; such a suggestion was not contemplated by the people and it would consequently be impossible for us to decide upon such, without a reference to those who sent us. I myself was only one among many. I could not, by my single act, bind even my associates to any promise of an entire sale, nor of course to any *award*, even had such an *award* been made, for the amount to be paid for an entire sale; I could only, with them, submit such an offer, if made, to the people. The facts of the case to which you allude, however, are these:—

During the congressional session of term before last, (1834-5) while the legally constituted delegation from the Cherokee nation was at Washington, an unauthorised delegation, consisting mostly of the same members who appeared there, equally unauthorised, last winter, and signed the paper pretending to be a treaty, were intriguing to be admitted into secret negociations with the United States' Government, while the delegation of which I was a member, were conducting theirs openly. It was said the party first mentioned came at the instance of the government, but of this there was no proof. Mr Schermerhorn, at the same time, was seeking to obtain a promise from the regular delegation, that they would meet him as a commissioner; affirming that he was in the confidence of the President, and if such a promise were given, he was certain to be appointed. Receiving no encouragement from the legal delegation, he is understood to have gone over to Mr Ridge and his friends, and to have opened negociations with them.—Soon after, it was un-

derstood that the President refused to entertain the proposition for which we had discretionary power, namely, that for a partial cession of the country, with security in the residue. It was understood, too, that he would not only require an absolute sale, to which our discretionary power did not extend; but that he also refused, on the score of the alleged extravagance of the sum demanded, to entertain our proposition of an absolute sale for twenty millions, in the event of its approval by the people, for whom, on this particular point, we had no authority to act finally. An impression had already got abroad that Mr. Ridge and his friends had, anterior to this, signified to the Executive their readiness to make a treaty at four millions of dollars, or less. But the President had repeatedly said he would go as far as the Senate would permit. The negociation being about to fail, the legal delegation concluded to ask that the President would submit the whole matter to the Senate and take their advice as to what ought to be done, under all the circumstances. It appeared to me and my associates that the Senate on adequately investigating the value of the country, would do us justice. The delegation was hence impelled to comply with a sudden oral request that they would sign a promise on the spot, to abide by the "*award*" of the Senate and to submit that "*award*" for the approval of the nation; but the promise, on our part, was given under an express understanding, through the Secretary of War, that the Executive would submit the case for the consideration of the Senate, and, had he done so fully and fairly, we should have had nothing to object, whatever might have been the result: because the United States' Executive, in thus referring the matter to the Senate, would have been bound by the result, which the delegation could then have laid before the people for their decision; and we are confident that a result thus obtained must have been grounded upon proper examination, not only into the real value of the country, but all the attending circumstances. But we waited and waited and waited and nothing was attempted. We heard, indeed, that immediately after the signature by us of the paper in question, conferences were held by Messirs Ridge, Currey, Boudinot, and Schermerhorn, at the White House, which led to changes in the views of the Executive. We also heard that the President had been advised, at one time, to meet the Senate and consult with them, (as was done by President Washington in reference to the former Cherokee Treaty of Holston,) and thus fix upon the sum to be paid for our country; and when we heard that, we felt satisfied there would be a fair examination, and justice might be expected; but we afterwards were told, that the President had been induced to abstain from communicating with the Senate at all in relation to the matter, under the impression, if the Indian question were settled in consequence of such conference, that the opposition would ascribe the settlement, not to the President, but to the Senate, the majority

of whom then differed with him in politics. When we were given reason to fear the question had been made to degenerate into a mere party question, we were, indeed, apprehensive that our hopes of a speedy settlement would be defeated. The session was now drawing to a close. On the 3d of March, 1835, —the morning of the 4th being the time for adjournment—hearing nothing more from the Executive, we found ourselves compelled, late at night, to memorialize the Senate. Our memorial was referred to the Committee on Indian Affairs. This Committee made a sudden and a brief report, recommending the purchase of the Cherokee country, upon such terms as should cover its intrinsic value. It had before this been communicated to the Senate, by the Secretary of War, that Mr Ridge and his party, had agreed to treat for four millions, or less. A resolution was submitted, at midnight, just as the Senate were about to separate, that, in their opinion, the President ought to allow a sum not exceeding five millions. This resolution, proposed in a hurry, was carried in as great a hurry, and, though *a mere opinion*, not pledging either the President or the Senate to any consequent action, it was represented to us as an "*award*," and we were told we had engaged ourselves to be bound by it, notwithstanding we knew it would not be considered as binding on any one else. Nevertheless, though so far from an *award* —nevertheless, though it was even *less than an opinion*, because it was given without evidence or reflection—we thought fit to lay it before the people as distinctly as if it had really been the "*award*" which we had been induced to promise we would lay before them. Accordingly, at the next Council, I submitted the proceedings to the convened nation, who unanimously protested, in open assembly, against any Treaty on the basis of the five millions, under any circumstances; and, therefore, had I been ever so much disposed to regard the *opinion* as an *award*, the VETO OF THE NATION settled the matter finally, and would have *nullified* any proceedings of mine to the contrary.

I will simply add, that the pretended Treaty, executed last session, is substantially on the terms, and made with the irresponsible party, of which I have here sketched the origin. The sketch I have given, I hope, explains to your satisfaction, the truth concerning the often repeated slander against me, of having actually made a Treaty, upon certain conditions, from which I afterwards receded.

I will now proceed to the other charge against me, which you mention as having been made by Mr Schermerhorn, namely, that I have no right to interfere in Cherokee affairs, because I once accepted a reservation on terms which made me a citizen of the United States, and thus disqualifying me for office in the Cherokee country, rendered my continuance there in power as Principal Chief, an usurpation. You observe that it is also asserted by Mr Schermerhorn that I actually expatriated myself from the nation, by quitting the place of my birth to reside

in the United States, and hence lost my privileges as a Cherokee.

It would be enough, perhaps, for me to mention the fact, that this silly pretence has been put on and put off so frequently by the government agents, as it happened to suit their purposes to consider me a chief or no chief, that an abandonment of the charge can always be produced as an offset against every assertion of it. But it is more satisfactory to me to go fully into it and to show its shallowness as well as its malevolence.

There was a tract of land given to my ancestors by the Cherokee nation. In the year 1819 the United States thought proper to secure six hundred and forty acres of that tract to me, as a *special* reservation. Some other grants were made at the same time, under express conditions, but mine, (as were one or two others,) was *untrammelled by conditions*, and hence denominated "*special.*" I did not reside on it when granted. It was known that I did not. It was known I never had resided on it. My residence had, for some time, been at Rossville, near the Lookout Mountain, within the charter limits of Georgia; a part of the nation which the United States aver is beyond the jurisdiction of any United States' Treaty. The Treaty conveying away these lands, contained a condition that all persons to whom *reservations* were made should give notice that they would *continue to reside* on the land secured to them. As it was so well known that I did not reside at the reservation in question, and never had resided there, it was therefore obvious that I could not *continue* what I had never *begun*. As a point of etiquette, however, I was advised that some communication in reference to my reservation might be expected; and finding all my neighbours were writing to the Agent—to comply with forms, and to prevent any disturbance from the subtleties of technical distinctions, I followed their example, and gave notice, *not* that I meant to *continue to reside* on the reservation where I had never resided, but that it was my intention to *continue to occupy and enjoy permanently* the land reserved to me by the Treaty of 1819. I considered myself as standing nearly in the position of an alien, especially authorized to hold lands in a foreign country, without forfeiting his allegiance to his own. I distinctly stated, at the same time, that I was "fully convinced the condition of that same Treaty did not immediately apply to special reservations;" and that I only gave this notice to comply with forms, and forms not understood by me as affecting the spirit in which that treaty had conveyed mine and one or two others. In so doing, I made no change of residence. I did not remove out of the nation, and become a citizen of the United States. I never have left the limits of the Cherokee nation, excepting when sent to school as a boy, and engaged in business in early youth and manhood, first in the situation of clerk to a merchant, and afterwards on my own account. Since then, whenever I have left the nation, it has been to transact the affairs of the

nation. Nevertheless, Mr Schermerhorn thinks he has succeeded in proving something against me, when he quotes one of our laws, where it is stated "the authority and claim of our common property, shall cease with the persons who shall think proper to remove themselves without the limits of the Cherokee nation." The reverend politician then triumphantly says, Mr John Ross complied with the condition of the Treaty of 1819; how could he comply with that condition and retain lands withdrawn from his country unless he ceased to live in his country? In ceasing to live in his country, he forfeited his rights of citizenship there, and, by so doing he ceased to be a Cherokee, and necessarily became a citizen of the United States! This is splendid reasoning, no doubt; but supposing the circumstances assumed as facts, to be true, how does the case then stand? To those who took reservations under the article which Mr Schermerhorn says, made them, by implication, citizens of the United States, the United States found it inconvenient to confirm the rights which they promised. The United States were pledged to protect the reservees from intruders; and yet intruders came and forcibly drove many of the reservees from their reservations, and the marauders were sustained by the authority of a border state! Hence the reservees became homeless. They had no resource but to return to the domain of their brother Indians; and thither they did return, and they were welcomed. In the meantime, they instituted suits before the Circuit Courts of Georgia for the recovery of their lands. The appeal succeeded. But Georgia, instead of re-instating them, memorialized Congress for an appropriation to *buy out the reservees*, because she had already *lotteried away* these very lands, assuming them to be hers under a promise of prospective possession from the United States. An appropriation was made and the entire spirit of the arrangement was changed by the capricious legislation of alleged *expediency!* and thus, to alter the application of a remark by Mr Schermerhorn, the relations between the United States and the reservees, "became resolved into their original elements," by the non-compliance of the United States with the conditions under which a modification of those relations with some, at least, might have been intended.

Thus you will perceive that Mr Schermerhorn has made an inference of his own from a treaty article, to suit his own purposes; and assuming that purposely erroneous inference to be a fact, has then proceeded to try us by it, as though it were a fact; and, tried under such a law, and such a judge, what true Cherokee could look to be acquitted?

Of another attempt—the attempt of which you speak to deny the authority of the Cherokee government, because, when the intolerance of Georgia rendered the observance of the letter of the Cherokee laws a penal offence in that part of the Cherokee country coming within the charter limits of Georgia—certain changes in the forms defined by our Constitution be-

came necessary, I shall say but little. That attempt to divide and slander us has also emanated from the Reverend Mr Schermerhorn. It was intended to break down our chiefs and government. The people saw and understood it, and determined to preserve both without changing the spirit of our laws, though they were forced to modify the mode of their fulfilment. In troubled times, this has so often been done every where, that for precedents it is not necessary to look very deeply into history. Nor is it any novelty in collisions between states or individuals, to attempt the crushing of the individual by whom either may be thwarted. In the United States this has occured even in reference to its greatest man. Some measures of the Ambassador of the French Republic, being opposed by Washington, Mr Genet, the vain and wrong-headed Ambassador in question, endeavoured to break down the great Washington himself, and that in the very bosom of his own country. The American people laughed at Genet, and loved Washington all the better for his contempt of the impertinence. It is unnecessary to enlarge upon the ridiculous and unworthy figure which Mr Schermerhorn will make in future history, as a reverend clergyman going with a pious, though somewhat rubicund face, upon a political embassy into an Indian country, and there attempting to gain his purpose by dividing the nation against itself, and getting up a party to overthrow the constituted authorities and meet his particular views. He was imitating Genet in a smaller sphere; a Genet in clerical robes, with a military guard, alternately preaching honesty and intriguing to mystify a plain people by the subtleties of political negotiation. In reference to us, however, Mr Schermerhorn has rendered his own arts impotent, and that by his own acts. Though he has sometimes disavowed our authority, he and his associates have generally immediately afterwards treated with us under a formal acknowledgment of that authority, and they have done so up to a very recent date, extending far beyond that of their latest disavowal.

I will here take occasion to touch upon two points in reference to our negociations, which do not seem to be understood by the American people. One impression concerning us, is, that though we object to removal, as we are equally averse to becoming citizens of the United States, we ought to be forced to remove; to be tied hand and foot and conveyed to the extreme western frontier, and then turned loose among the wild beasts of the wilderness. Now, the fact is, we never have objected to become citizens of the United States and to conform to her laws; but in the event of conforming to her laws, we have required the protection and the privileges of her laws to accompany that conformity on our part. We have asked this repeatedly and repeatedly has it been denied.

The other point to which I would advert is this: a charge that the whole scope of my policy has been to get the money of the nation into my own hands. *This is a monstrous misrepre-*

sentation. The funds of the nation never have been in my hands. They have been with the councils of the nation, as the funds of the United States are with the representatives of her people. For the propriety of *this* course we have always contended—for nothing more. We have wondered when we have heard objections made against our opposition to the policy of the United States in wishing to take our own funds away from our own councils and to place them under the entire controul of agents of the American Government—*a policy at length accomplished by the pretended treaty of this spring!* So far from ever wishing the controul of our national funds, I would not take such controul, even were it offered to me, which, by the laws of the nation, it never can be. But I will maintain to the last, that the United States ought not to give our money into the hands of frontier agents—often, in all countries, more deserving suspicion, and more liable to temptation, because less under *surveillance,* than any other public officers whatever, can be. The funds of the nation are our own funds—they consist of money paid for the purchase of our own lands, and that on forced and speculative, and consequently very inadequate terms;—and being the property of the nation, and property remaining after severe sacrifices on our part—*as* the property of the nation it is right that those funds should be under the controul of the councils of the nation.

I must bring my letter to a close. I fear it has already wearied you. But it gratifies me to find any one desirous of looking earnestly into the true state of the Cherokee question, and I wish to afford all such enquirers every satisfaction. You have already perceived that the singular attitude into which our affairs have been thrown by the mere trickery of party, emanated entirely from the subserviency of irresponsible Cherokees to the policy, backed by the power of the administration. It is a remarkable fact that even so lately as February 9, 1836, Mr John Ridge joined the regular delegation in a solemn protest against the dishonesty of this course, although three days previous, February 6, 1836, his father Major Ridge, who had arrived at the head of the counterfeit delegation of the got up party, had communicated under it to the real representatives of the people; and yet, with no new facts before him, on the 25th of March, 1836, this same Mr John Ridge, in a letter of condolence to the reverend politician, Mr Schermerhorn, returns to the opposition, and violently vituperates his recent associates and *the whole* course of their proceedings and their policy; a vituperation in which he necessarily must be understood as including himself; this being only his fourth entire revolution in politics within as many months: varying as often as the moon, without the excuse of lunacy for his changes.

In conclusion I would observe, that I still strongly hope we shall find ultimate justice from the good sense of the administration and of the people of the United States. I will not even

yet believe that either the one or the other would wrong us with their eyes open. I am persuaded they have erred only in ignorance, and an ignorance forced upon them by the misrepresentation and artifices of the interested. You yourself are aware to what an extent these artifices have been carried. You are aware that the Seminole outbreak and the Creek troubles, have been insidiously spoken of as connected with our condition; and although I myself never saw a Seminole Indian, and there is no intercourse whatever between our nation and theirs; although with the Creeks, also, we have far less communication than the state of New York has with Canada, nevertheless there have been some persons malevolent enough to wish the Cherokees extirpated because the Creeks and Seminoles have risen, and and very many others uninformed enough to join the war cry against us, under the sweeping denunciation that being all Indians, we ought alike to suffer!--The Cherokees, under any circumstances, have no weapon to use but argument. If that should fail, they must submit, when their time shall come, in silence; but honest argument they cannot think will be forever used in vain. The Cherokee people will always hold themselves ready to respect a *real* treaty and bound to sustain any treaty which they can feel that they are bound to respect. But they are certain not to consider the attempt of a very few persons to sell the country for themselves, as obligatory upon them, and I and all my associates in the regular delegation, still look confidently to the effect of a sense of justice upon the American community, in producing a real settlement of this question, upon equitable terms and with competent authorities. But, on one point, you may be perfectly at rest. Deeply as our people feel, I cannot suppose they will ever be goaded by those feelings to any acts of violence. No, sir. They have been too long inured to suffering without resistance, and they still look to the sympathies and not to the fears, of those who have them in their power. In certain recent discussions in the representative hall at Washington, our enemies made it an objection against me and against others, that we were not Indians, but had *the principles of white men*, and were consequently unworthy of a hearing in the Indian cause. I will own that it has been my pride, as Principal Chief of the Cherokees, to implant in the bosoms of the people, and to cherish in my own, *the principles of white men!* It is to this fact that our white neighbours must ascribe their safety under the smart of the wrongs we have suffered from them. It is in this they may confide for our continued patience. But when I speak of *the principles of white men*, I speak not of such principles as actuate those who talk thus to us, but of those mighty principles to which the United States owes her greatness and her liberty. To principles like these even yet we turn with confidence for redemption from our miseries. When Congress shall be less overwhelmed with business, no doubt, in some way, the matter may be brought to a reconside-

ration, and when the representatives of the American people have leisure to see how little it will cost them to be just, we are confident they will be true to themselves, in acting with good faith towards us. Be certain that while the Cherokees are endeavouring to obtain a more friendly consideration from the United States, they will not forget to show by their circumspection how well they merit it; and though no doubt there are many who will represent them otherwise, for injurious purposes, I can assure you that the white people have nothing to apprehend, even from our sense of contumely and unfairness, unless it be through the perverse and the treacherous manœuvres of such agents as they themselves may keep among us.

I have the honour to be,
Dear Sir,
Most truly yours,

JOHN ROSS.

MEMORIAL AND PROTEST

OF THE

CHEROKEE NATION,

To the honourable the Senate and House of Representatives of the United States of North America, in Congress assembled:

THE undersigned representatives of the Cherokee nation, east of the river Mississippi, impelled by duty, would respectfully submit, for the consideration of your honourable body, the following statement of facts: It will be seen, from the numerous subsisting treaties between the Cherokee nation and the United States, that from the earliest existence of this Government, the United States, in Congress assembled, received the Cherokees and their nation into favour and protection; and that the chiefs and warriors, for themselves and all parts of the Cherokee nation, acknowledged themselves and the said Cherokee nation to be under the protection of the United States of America, and of no other sovereign whatsoever; they also stipulated, that the said Cherokee nation will not hold any treaty with any foreign power, individual State, or with individuals of any State: that for, and in consideration of, valuable concessions made by the Cherokee nation, the United States solemnly guaranteed to said nation all their lands not ceded, and pledged the faith of the Government, that "all white people who have intruded, or may hereafter intrude on the lands reserved for the Cherokees, shall be removed by the United States, and proceeded against, according to the provisions of the act, passed 30th March, 1802," entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers." It would be useless to recapitulate the numerous provisions for the security and protection of the rights of the Cherokees, to be found in the various treaties between their nation and the United States. The Cherokees were happy and prosperous under a scrupulous observance of treaty stipulations by the Government of the United States, and from the fostering hand extended over them, they made rapid advances in civilization, morals, and in the arts and sciences. Little did they anticipate, that when taught to think and feel as the American citizen, and to have with him a common interest, they were to be *despoiled by their guardian*, to become strangers and wanderers in the land of their fathers, forced to return to the savage life, and to seek a new home in the wilds of the far west, and that without their consent. An instrument purporting to be a treaty with the Cherokee people, has recently been made public by the President of the United States, that will have such an operation, if carried into effect. This instrument, the delegation aver before the civilized world, and in the presence of Almighty God, is fraudulent, false upon its face, made by unauthorized individuals, without the sanction, and against the wishes, of the great body of the Cherokee people. Upwards of fifteen thousand

of those people have protested against it, solemnly declaring they will never acquiesce. The delegation would respectfully call the attention of your honourable body to their memorial and protest, with the accompanying documents, submitted to the Senate of the United States, on the subject of the alleged treaty, which are herewith transmitted.

If it be said that the Cherokees have lost their national character and political existence, as a nation or tribe, by State legislation, then the President and Senate can make no treaty with them; but if they have not, then no treaty can be made for them, binding, without and against their will. Such is the fact, in reference to the instrument entered into at New Echota, in December last. If treaties are to be thus made and enforced, deceptive to the Indians and to the world, purporting to be a contract, when, in truth, wanting the assent of one of the pretended parties, what security would there be for any nation or tribe to retain confidence in the United States? If interest or policy require that the Cherokees be removed, without their consent, from their lands, surely the President and Senate have no constitutional power to accomplish that object. They cannot do it under the power to make treaties, which are contracts, not rules prescribed by a superior, and therefore binding only by the assent of the parties. In the present instance, the assent of the Cherokee nation has not been given, but expressly denied. The President and Senate cannot do it under the power to regulate commerce with the Indian tribes, or intercourse with them, because that belongs to Congress, and so declared by the President, in his message to the Senate of February 22, 1831, relative to the execution of the act to regulate trade and intercourse with the Indian tribes, &c. passed 30th of March, 1802. They cannot do it under any subsisting treaty stipulation with the Cherokee nation. Nor does the peculiar situation of the Cherokees, in reference to the States, their necessities and distresses, confer any power upon the President and Senate to alienate their legal rights, or to prescribe the manner and time of their removal.

Without a decision of what ought to be done, under existing circumstances, the question recurs, is the instrument under consideration a contract between the United States and the Cherokee nation? It so purports upon its face, and that falsely. Is that statement so sacred and conclusive that the Cherokee people cannot be heard to deny the fact? They have denied it under their own signatures, as the documents herein before referred to will show, and protested against the acts of the unauthorized few, who have arrogated to themselves the right to speak for the nation. The Cherokees have said they will not be bouud thereby. The documents submitted to the Senate show, that when the vote was taken upon considering the propositions of the commissioner, there were but seventy-nine for so doing. Then it comes to this: could this small number of persons attending the New Echota meeting, acting in their individual capacity, dispose of the rights and interests of the Cherokee nation, or by any instrument they might sign, confer such power upon the President and Senate.

If the United States are to act as the guardian of the Cherokees, and to treat them as incapable of managing their own affairs, and blind to their true interests, yet this would not furnish power or authority to the President and Senate, as the treaty making power to prescribe the rule for managing their affairs. It may afford a pretence for the legislation of Congress, but none for the ratification of an instrument as a treaty made by a small faction against the protest of the Cherokee people.

That the Cherokees are a distinct people, sovereign to some extent, have a separate political existence as a society, or body politic, and a capability of being contracted with in a national capacity, stands admitted by the uniform practice of the United States from 1785, down to the present day. With them have treaties been made through their chiefs, and distinguished men in primary assemblies, as also with their constituted agents or representatives. That they have not the right to manage their own internal affairs, and to regulate, by treaty, their intercourse with other nations, is a doctrine of modern date. In 1793, Mr. Jefferson said, "I consider our right of pre-emption of the Indian lands, not as amounting to any dominion, or jurisdiction, or paramountship whatever, but merely in the nature of a remainder, after the extinguishment of a present right, which gives us no present right whatever, but of preventing other nations from taking possession, and so defeating our expectancy. That the Indians *have the full, undivided, and independent sovereignty as long as they choose to keep it, and that this may be forever.*" This opinion was recognised and practised upon, by the Government of the United States, through several successive administrations, also recognised by the Supreme Court of the United States, and the several States, when the question has arisen. It has not been the opinion only of jurists, but of politicians, as may be seen from various reports of Secretaries of War—beginning with Gen. Knox, also the correspondence between the British and American ministers at Ghent in the year 1814. If the Cherokees have power to judge of their own interests, and to make treaties, which, it is presumed, will be denied by none, then to make a contract valid, the assent of a majority must be had, expressed by themselves or through their representatives, and the President and Senate have no power to say what their will shall be, for from the laws of nations we learn that "though a nation be obliged to promote, as far as lies in its power, the perfection of others, it is not entitled forcibly to obtrude these good offices on them." Such an attempt would be to violate their natural liberty. Those ambitious Europeans who attacked the American nations, and subjected them to their insatiable avidity of dominion, in order, as they pretended, for civilizing them, and causing them to be instructed in the true religion, (as in the present instance to preserve the Cherokees as a distinct people,) these usurpers grounded themselves on a pretence equally unjust and ridiculous. It is the expressed wish of the Goverment of the United States to remove the Cherokees to a place west of the Mississippi. That wish is said to be founded in humanity to the Indians. To make their situation more comfortable, and to preserve them as a distinct people. Let facts show how this *benevolent* design has been prosecuted, and how faithfully to the spirit and letter has the promise of the President of the United States to the Cherokees been fulfilled—that "*those who remain may be assured of our patronage, our aid, and good neighbourhood.*" The delegation are not deceived by empty professions, and fear their race is to be destroyed by the mercenary policy of the present day, and their lands wrested from them by physical force; as proof, they will refer to the preamble of an act of the General Assembly of Georgia, in reference to the Cherokees, passed the 2d of December, 1835, where it is said, "from a knowledge of the Indian character, and from the present feelings of these Indians, it is confidently believed, that the right of occupancy of the lands in their possession should be withdrawn, *that it would be a strong inducement to them to treat with the General Government, and consent to a re-*

moval to the west; and whereas, the present Legislature openly avow that their primary object in the measures intended to be pursued, *are founded on real humanity to these Indians*, and with a view, in a distant region, to perpetuate them with their old identity of character, *under the paternal care of the Government of the United States;* at the same time frankly disavowing *any selfish or sinister motives towards them in their present legislation.*" This is the profession. Let us turn to the practice of *humanity*, to the Cherokees, by the State of Georgia. In violation of the treaties between the United States and the Cherokee nation, that State passed a law requiring all white men, residing in that part of the Cherokee country, in her limits, to take an oath of allegiance to the State of Georgia. For a violation of this law, some of the ministers of Christ, missionaries among the Cherokees, were tried, convicted, and sentenced to hard labor in the penitentiary. Their case may be seen by reference to the records of the Supreme Court of the United States.

Valuable gold mines were discovered upon the Cherokee lands, within the chartered limits of Georgia, and the Cherokees commenced working them, and the Legislature of that State interfered by passing an act, making it penal for an Indian to dig for gold within Georgia, no doubt "*frankly disavowing any selfish or sinister motives towards them.*" Under this law many Cherokees were arrested, tried, imprisoned, and otherwise abused. Some were even shot in attempting to avoid an arrest; yet the Cherokee people used no violence, but humbly petitioned the Government of the United States for a fulfilment of treaty engagements, to protect them, which was not done, and the answer given that the United States could not interfere. Georgia discovered she was not to be obstructed in carrying out her measures, "*founded on real humanity to these Indians,*" she passed an act directing the Indian country to be surveyed into districts. This excited some alarm, but the Cherokees were quieted with the assurance it would do no harm to survey the country. Another act was shortly after passed, to lay off the country into lots. As yet there was no authority to take possession, but it was not long before a law was made, authorizing a lottery for the lands laid off into lots. In this act the Indians were secured in possession of all the lots touched by their improvements, and the balance of the country allowed to be occupied by white men. This was a direct violation of the 5th article of the treaty of the 27th of February, 1819. The Cherokees made no resistance, still petitioned the United States for protection, and received the same answer that the President could not interpose. After the country was parcelled out by lottery, a horde of speculators made their appearance, and purchased of the "fortunate drawers," lots touched by Indian improvements, at reduced prices, declaring it was uncertain when the Cherokees would surrender their rights, and that the lots were encumbered by their claims. The consequence of this speculation was that, at the next session of the Legislature, an act was passed limiting the Indian right of occupancy to the lot upon which he resided, and his actual improvements adjoining. Many of the Cherokees filed bills, and obtained injunctions against dispossession, and would have found relief in the courts of the country, if the judiciary had not been prostrated at the feet of legislative power. For the opinion of a judge, on this subject, there was an attempt to impeach him, then to limit his circuit to one county, and when all this failed, equity jurisdiction was taken from the courts, in Cherokee cases,

by acts passed in the years 1833 and 1834. The Cherokees were then left at the merey of an interested agent. This agent, under the act of 1834, was the notorious William N. Bishop, the captain of the Georgia Guard, aid to the Governor, clerk of a court, postmaster, &c. and his mode of trying Indian rights is here submitted;

"MURRAY COUNTY, GEORGIA, *January* 20, 1835.

MR. JOHN MARTIN:

SIR: The legal representative of lots of land,

No. 95	25	district	2d	section.
86	25	"	2	"
93	25	"	2	"
89	25	"	2	"
57	25	"	2	"

has called on me, as State's agent, to give him possession of the above described lots of land, and informs me that you are the occupant upon them. Under the laws of the State of Georgia, passed in the years 1833 and 1834, it is made my duty to comply with his request, you will, therefore, prepare yourself to give entire possession of said premises, on or before the 20th day of February next, fail not under the penalty of the law."

"WM. N. BISHOP, *State's Agent.*"

Mr. Martin, a Cherokee, was a man of wealth, had an extensive farm; large fields of wheat growing; and was turned out of house and home, and compelled, in the month of February, to seek a new residence within the limits of Tennessee. Thus Mr. Bishop settled his rights according to the notice he had given. The same summary process was used towards Mr. John Ross, the principal chief of the Cherokee nation. He was at Washington city, on the business of his nation. When he returned, he travelled till about 10 o'clock at night, to reach his family; rode up to the gate; saw a servant, believed to be his own; dismounted, ordered his horse taken; went in, and to his utter astonishment, found himself a stranger in his own house, his family having been, some days before, driven out to seek a new home. A thought then flitted across his mind, that he could not, under all the circumstances of his situation, reconcile it to himself to tarry all night under the roof of his own house as a stranger, the new host of that house being the tenant of that mercenary band of Georgia speculators, at whose instance his helpless family had been turned out and made homeless.

Upon reflecting, however, that "man is born unto trouble," Mr. Ross at once concluded to take up lodgings there for the night, and to console himself under the conviction of having met his afflictions and trials in a manner consistent with every principle of moral obligation towards himself and family, his country and his God. On the next morning he arose early, and went out into the yard, and saw some straggling herds of his cattle and sheep browsing about the place. His crop of corn undisposed of. In casting a look up into the wide spread branches of a majestic oak, standing within the enclosure of the garden, and which overshadows the spot where lies the remains of his dear babe, and most beloved and affectionate father, he there saw, perched upon its boughs, that flock of beautiful pea-fowls, once the matron's care and delight, but now left to destruction and never more to be seen. He ordered his horse, paid his bill, and departed in search of his family, after travelling

amid heavy rains, had the happiness of overtaking them on the road, bound for some place of refuge within the limits of Tennesse. Thus have his houses, farm, public ferries and other property, been seized and wrested from him. Mr. Richard Taylor was, also, at Washington, and in his absence, his family was threatened with expulsion, and compelled to give two hundred dollars for leave to remain at home for a few months only. This is the "*real humanity*" the Cherokees were shown by the real or pretended authorities of Georgia, "disavowing any selfish or sinister motives towards them."

Mr. Joseph Vann, also, a native Cherokee, was a man of great wealth, had about eight hundred acres of land in cultivation; had made extensive improvements, consisting, in part, of a brick house, costing about ten thousand dollars, mills, kitchens, negro houses, and other buildings. He had fine gardens, and extensive apple and peach orchards. His business was so extensive, he was compelled to employ an overseer and other agents. In the fall of 1833, he was called from home, but before leaving, made a conditional contract with a Mr. Howell, a white man, to oversee for him in the year 1834, to commence on the first of January of that year. He returned about the 28th or 29th of December 1833, and learning Georgia had prohibited any Cherokee from hiring a white man, told Mr. Howell he did not want his services. Yet Mr. Bishop, the State's agent, represented to the authorities of Georgia, that Mr. Vann had violated the laws of that State, by hiring a white man, had forfeited his right of occupancy, and that a grant ought to issue for his lands. There were conflicting claims under Georgia for his possessions. A Mr. Riley pretended a claim, and took possession of the upper part of the dwelling house, armed for battle. Mr. Bishop, the State's agent, and his party, came to take possession, and between them and Riley, a fight commenced, and from twenty to fifty guns were fired in the house. While this was going on, Mr. Vann gathered his trembling wife and children into a room for safety. Riley could not be dislodged from his position up stairs, even after being wounded, and Bishop's party finally set fire to the house. Riley surrendered and the fire was extinguished.

Mr. Vann and his family were then driven out, unprepared, in the dead of winter, and snow upon the ground, through which they were compelled to wade, and to take shelter within the limits of Tennessee, in an open log cabin, upon a dirt floor, and Bishop put his brother Absalom in possession of Mr. Vann's house. This Mr. Vann is the same, who, when a boy, volunteered as a private soldier in the Cherokee regiment, in the service of the United States, in the Creek war, periled his life in crossing the river at the battle of the Horse Shoe. What has been his reward?

Hundreds of other cases might be added. In fact, near all the Cherokees in Georgia, who had improvements of any value, except the favourites of the United States agents, under one pretext or other, have been driven from their homes. Amid the process of expulsion, the Rev. John F. Schermerhorn, the United States commissioner, visited the legislatures of Tennessee and Alabama, and importuned those bodies to pass laws, prohibiting the Cherokees who might be turned out of their possessions from within the Georgia limits, taking up a residence in the limits of those States.

In the month of May, 1835, the general council of the Cherokee nation passed a resolution, appointing agents to ascertain the value of im-

provements, taken by white men, and also the amount of all claims against the United States for spoliations upon the Cherokees. It was believed full justice could not be done in a treaty, otherwise than by ascertaining the injuries they had sustained. This resolution looked to a treaty with the United States, so soon as arrangements therefor could be made. Numbers of Cherokees had been forced from their houses and farms, particularly by the authorities of Georgia, and the citizens of the U. States being in possession of the improvements, if they were not valued in a short time, daily undergoing alterations and additions, they could not be identified as Cherokee improvements. These agents were required to register all claims for improvements and spoliations, in books to be kept for that purpose. To proceed forthwith and to report to the principal chief, to be submitted to the next general council of the nation, which was to commence in October following, when the commisioner of the United States was to appear for the purpose of making a treaty. Messrs J. J. Trott, Robert Rogers, Elijah Hicks, Walter S. Adair, and Thomas F. Taylor, were appointed as agents, and in the latter part of July proceeded to the duties assigned them. After having made some progress, Messrs Trott and Hicks were arrested by a part of the Georgia guard. The officer commanding deprived them of all their books and papers, marched them off sixty miles, tied with ropes, to Spring Place, the station of the guard, and there kept them, with Messrs Taylor and Adair, who had also been arrested, in close confinement, in a guard-house, built to keep Indians in, for nine or ten days. A writ of *habeas corpus* was obtained, to bring the prisoners before a judge, but the guard evaded the service of the writ, by running the prisoners from place to place. The prisoners were required by Bishop, the captain of the guard, to give bond and surety to the State of Georgia, in the sum of one thousand dollars each, to appear at court, and to desist from valuing Cherokee improvements. They appeared at court, but no further steps were taken against them. Their books and papers have never been returned. This arrest was stated to be at the instance of Messrs Schermerhorn and Currey, agents for the United States, who, it is said, corresponded with the Governor of Georgia and the Secretary of War on the subject, and that a part of this correspondence may be seen in the War Department.

Joseph M. Lynch, an officer in the Cherokee nation, for executing the laws of the nation, was arrested by the Georgia guard, lodged in jail, and bail for his appearance at a court of justice refused. His negroes were also seized and committed to jail, and there continued until they broke jail and made their escape. Not less barbarity has been practised towards the Cherokees, by Benjamin F. Currey, the agent of the United States for Cherokee emigration, openly alleging it to be the policy of the United States to make the situation of the Indians so miserable as to drive them into a treaty, or an abandonment of their country, as may be seen by his letter to Messrs Brazleton and Kennedy, of 14th September, 1835. A few instances will be given as illustration of his mode of operation and general conduct.

Wahka and his wife were natives of, and residents in, the Cherokee nation east of the Mississippi. The agents of the United States prevailed upon the wife to enrol for emigration, against the remonstrances of the husband, and they afterwards, by force, separated her from her husband, and took her and the children to Arkansas, leaving the husband and father behind, because he would not enrol. The improvements

upon which he resided, were valued in the name of the wife, and he turned out of possession.

Atalah Anosta was prevailed upon to enrol when drunk, contrary to the wish and will of his wife and children; when the time arrived for him to leave for Arkansas, he absconded. A guard was sent after him by B. F. Currey, which arrested the woman and children, and brought them to the agency about dark, in a cold rain, shivering and hungry. They were detained under guard all night and part of the next day, and until the woman agreed to enrol her name as an emigrant. The husband then came in, and he and his wife and their children were put on board a boat, and taken to Arkansas. There they soon lost two or three of their children, and then returned on foot to the Cherokee nation east of the Mississippi.

Sconatachee, when drunk, was enrolled by Benjamin F. Currey; when the emigrants were collecting, he did not appear, and Currey and John Miller, the interpreter, went after him. Currey drew a pistol, and attempted to drive the old man to the agency, who presented his gun and refused to go. Currey and Miller returned without him. He made the facts known to Hugh Montgomery, the Cherokee agent, who gave him a certificate that he should not be forced away against his will. So the matter rested till the emigrants were collected the next year, and then Currey sent a wagon and guard for him. He was arrested, tied, and hauled to the agency, leaving some of his children behind in the woods, where they had fled on the approach of the guard. Richard Cheek enrolled for emigration, but before the time of departure, he hired to work on the Tuscumbia rail-road, in Alabama. When the emigrants started, Currey had Cheek's wife taken, put on board a boat, and started to Arkansas. She was even denied the privilege of visiting her husband as she descended the river. He was left behind, and never saw her more. She died on the way.

Such outrages, and violations of treaty stipulations, have been the subject of complaint to the Government of the United States, on the part of the Cherokees for years past; and the delegation are not surprised, that the American people are not now startled at those wrongs, so long continued, for by habit men are brought to look with indifference upon death itself. If the government of the United States have determined to take the Cherokee lands without their consent, the power is with them; and the American people can "reap the field that is not their own, and gather the vintage of his vineyard whom by violence they have oppressed."

There is no ground for the pretended necessity under which the authorities of the United States have acted, for at the time of the formation, and ratification of the pretended treaty, the Cherokee people had their delegation and representatives in Washington city, with instructions and full powers to negotiate a treaty. This delegation were importuning the Government for an opportunity to do so, as their correspondence with the War Department will show. It will further show, they were at first received and recognised as the proper party with which to make a treaty, and then rejected, unless they would adopt the act of the faction at New Echota, which, in them, would have been a violation of the express will of their constituents. They were willing to act under their authority for the Cherokee people, bnt the opportunity to do so was refused. Then there is no force in the argument for the ratification of a fraudulent treaty, that it was necessary something

should be done. There is as little in the assertion, that the Cherokees were in a distressed and starving condition, and that it was therefore necessary to ratify the New Echota instrument, as a treaty for their benefit and preservation, as the best that could be done. This position denies to the Cherokees the right to think for themselves.

Their distresses have not been denied, but the argument comes with a bad grace from the agents of the United States, who have produced them avowedly for the purpose of forcing a treaty. The Cherokees have not asked, but refused the proffered relief, and are surely the best judges of their own true situation, can properly appreciate the motives for the offer, as also the expressed sympathy for their misfortunes, and the avowed benevolence towards the Indian race, all of which amounts simply to this: "we want, and intend to take your lands, and are sorry you are unwilling for us to do so in our own way."

The delegation will call to the recollection of the members of the House, the arguments and predictions of the opponents to the passage of "An act to provide for an exchange of lands with the Indians, residing in any of the States or Territories, and for their removal west of the Mississippi." While that measure was under discussion in the House of Representatives in 1830, the members opposed insisted its passage would be an encouragement to the States to press upon the Indians, and to force them from their homes; that it was the secret design to make their situation so wretched and intolerable, that they would be forced to abandon their country. This was expressly denied by the friends of the measure, by none more earnestly than the members from Georgia, who insisted the measure was founded in humanity to the Indians. Who was right, let subsequent facts decide. That law, though not so designed by Congress, has been the source from which much of the Cherokee sufferings has come. Immediately after its passage, Georgia commenced her oppressive legislation over Indian territory, and the payment of Cherokee annuities was suspended, and elections ordered, under the authority and direction of Government agents, for deciding to whom they were to be paid.

The present is the third attempt to make a treaty with a few unauthorized Cherokees, against the will of their nation. In the year 1834 a treaty was made at Washington with Andrew Ross, James Starr, Thomas J. Pack, and John West, which the Senate refused to ratify. Andrew Ross and James Starr have also signed the New Echota instrument. On the 14th of March, 1835, another was concluded with John Ridge, Archilla Smith, Elias Boudinot, S. W. Bell, John West, William A. Davis, and Ezekiel West. It was never submitted to the Senate, but by the President directed to be submitted to the Cherokees for their consideration and approbation, which was done, with an address from the President himself. The propositions were rejected with great unanimity by the Cherokee people. It will be observed that John Ridge, Archilla Smith, and Elias Boudinot, have also signed the New Echota instrument.

On the 23d of October, 1835, the general council of the Cherokee nation appointed a delegation of twenty, and vested in them full power to enter into a treaty with the United States, among them was John Ridge and Elias Boudinot. If they failed to make a treaty in the nation, with a commissioner, they were to go to Washington City, there to negotiate finally with the General Government of the United States. On the next day the matter was submitted to the people, when

they declared, "we approve of, and confirm the nomination and appointment of John Ross, &c. &c. as our representatives to the United States Government; also, of the powers in them vested, under the resolutions of the general council annexed; and we unite with the committee and council in forbidding any delegation to treat with the Government of the United States of North America, excepting the delegation now formally and openly confirmed by us, the people of the Cherokee nation." Signed by one thousand and seventysix individuals then present, and among them near every man who signed the New Echota treaty. The delegation thus appointed, opened a negotiation with John F. Schermerhorn, U. States commissioner, but could effect nothing; and in their letter of the 28th October, 1835, they say they are "the delegation chosen from and appointed by the Cherokee nation." Again they say, "upon examining the articles you have submitted as the basis of the treaty you have to propose, they can find in them no real variarion from those against which the Cherokee nation have already openly and formally protested." "As a reference must be had, even by yourself to the Senate, when it convenes, under any circumstances, it will be necessary for us to conclude at Washington, and, therefore, we think it would only be trifling with your time to encourage any further negotiation here." This letter was signed by the delegation, including John Ridge and Elias Boudinot, and addressed to John F. Schermerhorn, United States commissioner. On the 31st of the same month, they addressed Mr. Schermerhorn another letter, declining a further negotiation with him and say, "in reference to another council at New Echota, we cannot enter into your views, as the people have already made their election upon the course they wish pursued. We, in their name, protest against any future meeting being called, under the name of a council. in the way you proposed, as an unnecessary agitation of the public mind, and as an act which will never be recognised by the Cherokee nation." This was the language of the delegation, with Ridge and Boudinot inclusive, in the month of October last. Before the delegation started to Washington, Boudinot resigned, and recommended that Stand Watie, his brother, should be appointed in his place, which was done, and he and Ridge came with the delegation to Washington, and remained with them till the month of February, when they left, and wrote a letter, through John F. Schermerhorn, to the Government of the United States, urging the ratification of the treaty made at New Echota, and abusing the authority under which they came to Washington, saying "all the members of the delegations for a number of years past, he, John Ross, has nominated to his council, who confirm them, always adding to their number John Ross himself," yet they say in the same letter, that they were appointed "by the people at Red Clay council."

They further say, "John Ross and his friends wished to get all the funds of the nation in their own hands, and this accounted for their repugnance to make a treaty at home in open council." This assertion is false and gratuitous, and who showed a greater repugnance than John Ridge and Elias Boudinot? They have succeeded in having ratified an instrument constituting themselves and other friends a committee to manage all Cherokee affairs. A new way of making Indian chiefs, but it goes to show their original design. Their repugnance to make a treaty in the nation was founded in a desire to get the delegation out of the nation, when they and their friends could meet the commissioner, and make a treaty giving them all power and controul of the funds of

the nation, which they could never obtain by the consent of the Cherokee people. In another letter of the 25th March, 1836, they say, "the council (meaning at Red Clay) was called by Ross to *dodge* the commissioner to come to Washington." Now this council was not called, but was the regular annual meeting. Notwithstanding their own letters, they have the effrontery to say, "Ross drew up the papers granting full powers to twenty persons to treat there or elsewhere. To this instrument he added a protest against the acceptance of the five millions;" that the people did not understand what was done. Let this be compared with their letters of the 28th and 31st of October, 1835, and their hypocrisy will be apparent. When Mr. Schermerhorn got them to Washington, they were prepared to certify any thing he might desire. In the New Echota treaty he had provided an office for himself, the propriety of which was questioned, and notwithstanding at the time of its formation, Ridge and Watie were at Washington, as members of what they called the Ross delegation. On the 25th March, 1836, they certified for Mr Schermerhorn in these words: "we must also do you the justice to say, that your name, and that of Governor Carroll, as commissioners to settle the affairs of our people under the treaty, was inserted in it according to our wishes and request," &c. They further say, "the constituted authorities of the Cherokees have defamed the high officers of the Government of the United States, and treated the friendship and kindness of the honourable Messrs Frelinghuysen and Everett, and Judge McLean, with contempt. The same is repeated by Mr Schermerhorn in his letters of the 29th of March, 1836, to the Secretary of War. These statements have no foundation in fact, and it is to be regretted Mr. Schermerhorn has given such implicit credence to his interested witnesses as to give their falsehoods the sanction of his name.

The charge has been made to excite prejudice against this delegation. They are attacked by naked assertion, to which, in duty to themselves, they give a positive denial, and feel assured their friends will not be found ready to believe every evil report.

Shortly after the Cherokee delegation arrived in Washington, they visited the Secretary of War, who told them Mr. Schermerhorn had an idea of bringing some Cherokees with him, but that he had been instructed not to bring one; yet he did bring them, and about the time they arrived the Commissioner of Indian Affairs was seen hunting a place and making arrangements for their board. Shortly after this, he wrote to the Cherokee delegation that those individuals had not come to make a treaty but to secure the ratification of that made at New Echota. Thus it seems they were brought as witnesses for Mr. Schermerhorn and themselves, to establish, by their evidence, whatever might be necessary to secure the ratification of the fraudulent treaty, and they have, from time to time, as circumstances required, addressed letters to Mr. Schermerhorn, to be submitted, through the Secretary of War, to the Senate. From the letters procured by Mr. Schermerhorn, and submitted to the Senate, it seems to have been the design to create an impression that the members of the committee and council, and also the principal chief, had lost the confidence of the Cherokee people. This is not new. It has been asserted for years, particularly by John Ridge, Elias Boudinot, and their associates, but let facts speak for themselves. In 1831, the payment of the Cherokee annuities to the treasurer of the nation was

suspended, and so remained till 1834, when, under the idea that the authorities of the nation were self-constituted, and not sanctioned by the Cherokee people, an election was ordered to be held at the agency, to decide whether the annuities should be paid to the treasurer of the nation, or to the individual Cherokees. Every vote, save one, was given that they be paid to the treasurer. Again, in 1835, another election for the same purpose, under authority of the United States' agents, was had, near the house of John Ridge. He and his associates exerted all their influence, and when the votes were taken, there appeared, two thousand two hundred and twenty-five for paying the treasurer, and one hundred and fourteen opposed; and among them many Creeks and Arkansas emigrants, having no interest in the matter. This is evidence more to be relied on, than the declarations of interested individuals.

The Cherokee delegation have thus considered it their duty to exhibit before your honourable body a brief view of the Cherokee case, by a short statement of facts. A detailed narrative would form a history too voluminous to be presented, in a memorial and protest. They have, therefore, contented themselves with a brief recital, and will add, that in reviewing the past, they have done it alone for the purpose of showing what glaring oppressions and sufferings the peaceful and unoffending Cherokees have been doomed to witness and endure. Also, to tell your honourable body, in sincerity, that owing to the intelligence of the Cherokee people, they have a correct knowledge of their own rights, and they well know the illegality of those oppressive measures which have been adopted for their expulsion, by State authority. Their devoted attachment to their native country has not been, nor ever can be, eradicated from their breast. This, together with the implicit confidence, they have been taught to cherish, in the *justice, good faith, and magnanimity of the United States*, also, their firm reliance on the generosity and friendship of the American people, have formed the anchor of their hope and upon which alone they have been induced and influenced to shape their peaceful and manly course, under some of the most trying circumstances any people have been called to witness and endure. For more than *seven long years* have the Cherokee people been driven into the necessity of contending for their just rights, and they have struggled against fearful odds. Their means of defence being altogether within the grasp and controul of their competitors, they have at last been trampled under foot. Their resources and means of defence, have been seized and withheld. The treaties, laws, and constitution of the United States, their bulwark, and only citadel of refuge, put beyond their reach; unfortunately for them, the protecting arm of the commander-in-chief of these fortresses has been withdrawn from them. The judgments of the judiciary branch of the government, in support of their rights, have been disregarded and prostrated; and their petitions for relief, from time to time before Congress, been unheeded. Their annuities withheld; their printing press, affording the only clarion through which to proclaim their wrongs before the American people and the civilized world, has been seized and detained, at the instance of an agent of the United States.

An attorney at law, employed by them to defend the rights of the suffering Cherokees, before the courts of Georgia, has been induced to desert his clients' cause, under expectations of being better paid,

at their expense, by taking sides against them. Some of their own citizens, seduced and prompted by officers of the United States Government to assume upon themselves the powers of the nation, unconferred, have been brought to negotiate a treaty, over the heads and remonstrances of the nation. Is there to be found in the annals of history, a parallel case to this? By this treaty all the lands, rights, interests, and claims, of whatsoever nature, of the Cherokee people east of the Mississippi, are pretended to be ceded to the United States for the pittance of $5,600,000. Let us take a cursory view of the country and other rights of the Cherokees professed to be surrendered to the United States, under the provisions of this fraudulent treaty. The Cherokee Territory, within the limits of North Carolina, Georgia, Tennessee and Alabama, is estimated to contain *ten millions of acres.* It embraces a large portion of the finest lands to be found in any of the States; and a salubrity of climate unsurpassed by any; possessing superior advantages in reference to water power; owing to the numerous rills, brooks and rivers, which flow from and through it; some of these streams afford good navigation, others are susceptible of being easily improved and made navigable. On the routes where roads have been opened by the Cherokees, through this country, there must necessarily pass some of the most important public roads and other internal improvements, which at no distant day will be constructed.

The entire country is covered with a dense forest of valuable timber, also abounding in inexhaustible quarries of marble and limestone. Above all, it possesses the most extensive regions of the precious metal known in the United States. The riches of the gold mines are incalculable, some of the lots of *forty acres* of land, embracing gold mines, which have been surveyed and disposed of by lottery, under the authority of Georgia, (with the encumbrance of the Indian title,) have been sold for *upwards of thirty thousand dollars!*

There are also extensive banks of iron ore interspersed throughout the country. Mineralogists who have travelled over a portion of this territory, are fully persuaded, from what they have seen, that lead and silver mines will also be found in the mountain regions. Independent of all these natural advantages and invaluable resources, there are many extensive and valuable improvements made upon the lands by the native Cherokee inhabitants, and those adopted as Cherokee citizens, by intermarriages.

The Cherokee population has recently been reported by the War Department to be 18,000, according to a census taken by agents appointed by the Government. This people have become civilized, and adopted the Christian religion. Their pursuits are pastoral and agricultural, and in some degree, mechanical. Their stocks of cattle, however, have become greatly reduced in numbers within the few past years, owing to the unfortunate policy which has thrown upon this territory a class of white and irresponsible settlers, who, disregarding all laws and treaties, so far as the rights of the Cherokees are concerned, and who have been actuated more from the sordid impulses of avarice, than by any principle of moral obligation or of justice, have by fraud and force made Cherokee property their own.

The possessions of the Cherokee inhabitants, consist of houses, which cost generally from fifty dollars, one hundred to one thousand dollars, and in many instances up to five thousaud dollars; some few

as high as six, eight, and ten thousand dollars, with corresponding out buildings, consisting of kitchens, meat houses, dairies, granaries or corn cribs, barns, stables, &c., grist and saw mills: connected with these are gardens for culinary vegetables; also peach and apple orchards; lots of enclosed ground for horses, black cattle, &c. The farms of the Cherokees contain from ten, twenty, thirty, forty, fifty, sixty, to one hundred and fifty, and two hundred acres of land under cultivation, and enclosed with good rail fences. Among the most wealthy there are farms of three and four hundred acres, and in one instance perhaps about eight hundred acres in cultivation. Some of the most extensive and valuable farms and possessions have been forcibly wrested from the proprietors by the Georgia guard and agents, and citizens of Georgia put into possession of them, whilst the Cherokee owners have been thrust out to seek shelter in a camp, or under the roof of a log hut in the woods, within the limits of North Carolina, Tennessee, and Alabama. There are many valuable public ferries also owned by the Cherokees, the income of some of them amount to from five hundred to one thousand, fifteen hundred and two thousand dollars per annum. Several public roads opened at private expense, were also kept up by companies under regulations of the national council, and toll gates were erected on them. These regulatiens have all been prostrated by State Legislation, and the Cherokee proprietors thus deprived of their rights, privileges, and property. Besides all this, there are various important interests and claims which are secured by the provisions of the former subsisting treaties, to the Cherokees, and for which the United States in justice are bound to allow indemnification. For the surrender then of a territory containing about ten millions of acres, together with the various interests and claims spoken of, and the amount that will be required to cover these claims, no man, without data, can form any estimate. The sum of five millions, six hundred thousand dollars only, is proposed to be paid: the price given for the lands at this rate would not exceed thirty cents per acre. Will Georgia accept the whole amount, for that portion within her limits?

The faith of the United States being solemnly pledged to the Cherokee nation for the guarantee of the quiet and uninterrupted protection of their territorial possessions forever; and it being an unquestionable fact, that the Cherokees love their country; that no amount of money could induce them voluntarily to yield their assent to a cession of the same. But, when under all the circumstances of their peculiar situation and unhappy condition, the nation see the necessity of negotiating a treaty for their security and future welfare, and having appointed a delegation with full powers for that purpose, is it liberal, humane, or just, that a fraudulent treaty, containing principles and stipulations altogether objectionable, and obnoxious to their own sense of propriety and justice, should be enforced upon them? The basis of the instrument, the sum fixed upon, the commutation of annuities, and the general provisions of the various articles it contains, are all objectionable. Justice and equity demand, that in any final treaty for the adjustment of the Cherokee difficulties, that their rights, interests, and wishes should be consulted; and that the individual rights of the Cherokee citizens, in their possessions and claims, should be amply secured; and as freemen, they should be left at liberty to stay or remove where they please. Also, that the territory to be ceded

by the United States to the Cherokee nation west of the Mississippi, should be granted to them by a patent in fee simple, and not clogged with the conditions of the act of 1830; and the national funds of the Cherokees should be placed under the controul of their national council.

The delegation must repeat, the instrument entered into at New Echota, purporting to be a treaty, is deceptive to the world, and a fraud upon the Cherokee people. If a doubt exist as to the truth of their statement, a committee of investigation can learn the facts, and it may also learn that if the Cherokees are removed under that instrument, it will be by force. This declaration they make in sincerity, with hearts sickening at the scenes they may be doomed to witness; they have toiled to avert such a calamity; it is now with Congress, and beyond their controul; they hope they are mistaken, but it is hope against a sad and almost certain reality. It would be uncandid to conceal their opinions, and they have no motive for expressing them but a solemn sense of duty. The Cherokees cannot resist the power of the United States, and should they be driven from their native land, then will they look in melancholy sadness upon the golden chain presented by President Washington to the Cherokee people as emblematical of the brightness and purity of the friendship between the United States and the Cherokee nation.

JNO. ROSS,
JOHN MARTIN,
JAMES BROWN,
JOSEPH VANN,
JOHN BENGE,
LEWIS ROSS,
ELIJAH HICKS,
RICH'D FIELDS,
Representatives
of the Cherokee Nation.

WASHINGTON CITY, 21*st June*, 1836